

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS**

DALE GILLS,

Plaintiff,

v.

**S. RILEY, C/O HOERNER,
ERICK PLOTT, C/O HAMBY,
C/O PEARSON, LORRAINE WOODS,
and C/O ROLFE**

Defendants.

No. 02-CV-1239-DRH

ORDER

HERNDON, District Judge:

On December 17, 2002. Dale Gills, an inmate at Tamms Correctional Center, filed suit against Defendants for deprivations of his constitutional rights pursuant to **42 U.S.C. § 1983** (Doc. 1). Gills claims that Defendants violated his Eighth Amendment rights by using excessive force on him (Count 1) and denying him medical treatment (Count 2). He also brings a Illinois common law claim of assault and battery against Defendants (Count 3).

Pursuant to **28 U.S.C. § 636(b)(1)(B)**, Magistrate Judge Clifford J. Proud submitted a Report and Recommendation ("the Report") on July 14, 2005 (Doc. 72). The Report recommends that the Court grant Defendant Lorraine Wood's motion for summary judgment (Doc. 61).

The Report was sent to the parties with a notice informing them of their right to appeal by way of filing “objections” within ten days of service of the Report. To date, none of the parties has filed objections. The period in which to file objections has expired. Therefore, pursuant to **28 U.S.C. § 636(b)**, this Court need not conduct *de novo* review. ***Thomas v. Arn*, 474 U.S. 140, 149-52 (1985)**.

Accordingly, the Court **ADOPTS** the Report (72). The Court **GRANTS** Defendant Woods’ motion for summary judgment on Count 2(Doc. 61).¹ At the close of the case, the Clerk of the Court shall enter judgment in favor of Lorraine Woods and against Dale Gills on Count 2 of the Amended Complaint. Further, the record reflects that despite the fact that the Court dismissed with prejudice Defendant Cox on preliminary review, Gills named him in the caption of the Amended Complaint. As was the case in the original complaint, the body of the Amended Complaint does not contain any allegations against Cox. Thus, the Court **DISMISSES with prejudice** Defendant Cox. Counts 1 and 3 remain pending.

IT IS SO ORDERED.

Signed this 8th day of August, 2005.

/s/ David RHerndon
United States District Judge

¹Woods is the only Defendant named in Count 2.